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INTERNATIONAL CITY MANAGERS' ASSOCIATION
1313 EAST 60TH STREET - CHICAGO 37, ILLINOIS

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PROCEDURE IN ESTABLISHING THE MERIT SYSTEM

What are the most important elements in a municipal personnel system and what are the first steps in setting up the merit system?

Every municipal government regardless of size should have a personnel program tailored to fit its needs. The development of such a program is a responsibility of the chief municipal administrator, and modern personnel procedures are as applicable to small as to large cities. A town with as few as eight employees has many of the personnel problems of the large city and a personnel policy that insures the recruitment and retention of the best workers is as essential where there are eight as where there are 800 employees. Only through the effective administration of a merit system of personnel administration can the administrator make sure that employees will be treated on a fair and impartial basis.

The basic first steps include the adoption of an ordinance creating the merit system, the drafting and adoption of personnel rules, the development of a position-classification plan, and adoption of a pay plan. The first step, the adoption of a merit system ordinance, is discussed in this report, and the second step, personnel rules and regulations, in MIS Report No. 41.

In the smaller cities the chief administrator may handle the personnel work or assign it to an assistant, while the larger cities may have a full-time personnel director appointed directly by the chief administrator. A separate civil service commission or personnel board is not necessary or desirable. It is preferable that the city council instead of a civil service commission or board should make the basic decisions affecting the personnel program, such as the adoption of personnel rules, fixing salaries and wages, etc. If a civil service commission is required by law it should have advisory functions only.

In recent years there has been a trend away from the commission type of agency and toward a single-headed agency responsible directly to the chief administrator. Such a set-up recognizes the need to integrate the activities of the personnel agency with management. It emphasizes service rather than control as the dominant theme of personnel administration, centralizing responsibility and facilitating promptness of action. The quasi-judicial function of the separate board or commission, such as the hearing of appeals from decisions relating to suspension, demotion, or dismissal can be handled by a board of review or appeals and such a board can be set up for this special purpose. But even here the decisions of the board should not be final.

The argument that the city manager or personnel director cannot perform quasi-legislative functions is not a sound argument in favor of a separate personnel board. Many other departments with equally large rule-making responsibility have operated satisfactorily under the direction of a single department head, such as the health and police departments. While the local situation is the conditioning factor in determining what type of organization is best suited for handling the personnel system there should be no hesitation in altering the organizational set-up if it is out-moded even though it involves amendment of the city charter or state law.

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If for some reason it seems desirable that a personnel board be created it is suggested that it have advisory functions only. In some cities such advisory boards consist of three members appointed for overlapping terms of from four to six years serving without compensation at the pleasure of the appointing authority. The board usually is appointed by the city council. The personnel director can act as secretary for the board. All regular and special meetings of the advisory board should be held in the city hall, and the functions of the board should be clearly limited. For example, the board may consider personnel rules as submitted by the city manager and make recommendations to the manager concerning the same, act in an advisory capacity to the city manager on problems concerning personnel administration, hear appeals submitted by employees in the competitive service, examine witnesses in any investigation or hearing conducted by the board, and hold hearings and make recommendations to the manager on the adoption or revision of the position-classification plan. If a personnel advisory board is created there will be no need for the separate appeals board suggested in the proposed ordinance.

Suggested Ordinance. The proposed ordinance in the supplement to this report uses the term "merit system" in preference to "civil service" because the latter in the minds of many officials stands for a negative approach to the problems of personnel administration. Modern personnel administration recognizes and seeks to protect the interests of the employee, of the management as represented by the council and chief administrator, and of the public. The public is concerned with efficient, courteous, and economical service; management must stand or fall on the record of performance and costs; and the employee is concerned with working conditions, pay, advancement, recognition, and security. When any one of these interests dominates the others, inefficiency and injustice result.

The merit system ordinance suggested here leaves the final authority to discipline or dismiss an employee in the hands of the city manager (or the mayor in a noncouncil-manager city). It is believed that the employee is adequately protected by giving him the right to a hearing. The force of public opinion will be sufficient to insure him of fair treatment. If the disciplinary action or dismissal is well-founded it is unlikely that the employee will take his case to the appeals board. But no supervisor should take action against an employee unless he is able to justify such action publicly.

Many cities have found it desirable to contract with an outside agency for the performance of many personnel functions. The county or state personnel agency in some states performs some personnel work for cities, and in a few states some services are available from the state municipal league. For assistance in preparing and installing position-classification and pay plans a city may well consider using the services of Public Administration Service, 1313 East 60 Street, Chicago.

Finally, it should be clear that the suggested ordinance in the supplement to this report is only an approach to the personnel problem, and should not be adopted verbatim by the city council. It provides a basis upon which to build a local ordinance adapted to local conditions and needs. In non-council-manager cities "mayor" should be used wherever "city manager" appears in the ordinance. This proposed ordinance is based on the model state civil service law, on the merit system ordinances of several small cities, and on suggested ordinances prepared by Public Administration Service and by the League of California Cities.

(Note: Officials of cities subscribing to MIS may secure on request a cost-of-living salary adjustment ordinance, copies of selected personnel forms, and a copy of a 17-page pamphlet "The Elements of a Comprehensive Personnel Program" by Henry Hubbard.)

SUGGESTED MERIT SYSTEM ORDINANCE

An ordinance of the City of _____ creating and establishing a personnel system for said city.

The City Council of the City of _____ does ordain as follows:

Sec. 1. Adoption of Personnel System. Pursuant to the authority granted to the council under the provisions of the city charter, in order to establish an equitable and uniform procedure for dealing with personnel matters, and to place municipal employment on a merit basis so that the best qualified persons available shall be brought into the service of the city, the following personnel system is hereby adopted.

Sec. 2. Department of Personnel. There is hereby created a department of personnel which shall be headed by a personnel director. The city manager may serve as personnel director; or the duties of the office of personnel director may be combined with those of any other office in the event the work involved does not warrant, in the discretion of the city manager, the creation of a special position; or the manager may appoint a full-time personnel director. The personnel director shall administer all provisions of this ordinance and the rules established hereunder, not specifically reserved to the city council or the appeals board, and perform all lawful and necessary duties essential to the effective administration of the personnel system; prepare rules and revisions and amendments thereof, for the consideration of the city council; prepare a position-classification plan and class specifications and revisions thereof for the consideration of the city manager; prepare a compensation plan for the competitive service for consideration and approval by the city council, this plan to constitute the official schedule of compensation in the competitive service; certify pay rolls; maintain an official roster of officers and employees and such other records as may be required.

Sec. 3. Appeals Board. The city council shall appoint an appeals board of three members who are in sympathy with the merit system principle. The first board to be appointed shall, at its first meeting, so classify its members by lot that one shall serve for a term which shall expire January 15, 194_, one shall serve for a term which shall expire January 15, 195_, and one shall serve for a term which shall expire January 15, 195_. At the expiration of each of the terms so provided for, a successor shall be appointed by the city council for a term of six years.

Any member of the board may be removed with cause at any time by the city council. Vacancies on the appeals board, from whatever cause, shall be filled by appointment by the city council for the unexpired term. Each member of the board shall serve until his successor is appointed and qualified. The members of the appeals board shall be qualified electors of the city and shall serve without compensation. No person shall be appointed to said board who holds any salaried office or employment in the city government nor shall any member, while a member of the board or for a period of one year after he has ceased for any reason to be a member, be eligible for appointment to any salaried office or employment in the service of the city.

The board shall hear appeals submitted by any regular employee relative to any suspension, demotion, or dismissal, and shall submit a written statement of facts, findings, and recommendations to the appointing authority from whose action or decision the appeal was made. Such recommendations shall be advisory only. Any action taken by the appointing authority shall be final and conclusive and shall not be reviewable in any court.

Sec. 4. Competitive Service. The provisions of this ordinance shall apply to all offices, positions, and employments in the service of the city, except persons elected to office by popular vote and persons appointed to fill vacancies in such offices; positions on appointive boards, commissions, and committees; members of volunteer fire department who are not paid a full-time monthly salary; the city manager and heads of departments; and part-time hourly or per diem employees who work less than four months in any calendar year. Offices, positions, and employments not exempted above shall constitute the competitive service of the city.

Sec. 5. Adoption of Rules. In addition to such other matters as may be necessary and proper to carry out the intent and purposes of this ordinance, rules shall be formulated, and after a public hearing shall be adopted by the city council establishing specific procedures to govern the following phases of the personnel program: the preparation and administration of a position - classification plan covering all positions in the competitive service; the preparation and administration of a pay plan covering all positions in the competitive service; the public announcement of vacancies and examinations and the acceptance of applications for employment; the preparation and conduct of examinations, and the establishment and use of employment lists containing names of persons eligible for appointment; the certification and appointment of persons from employment lists to fill vacancies and the making of temporary and emergency appointments; the evaluation of the work of employees including those serving a probationary period; the transfer, promotion, demotion and reinstatement of employees in the competitive service; the separation from the service of employees through resignation, lay-off, suspension, dismissal and for incapacity to perform required duties; the establishment of hours of work, attendance and leave regulations, working conditions and the development of employee morale, welfare and training; and the maintenance and use of necessary records and forms.

Sec. 6. Appointments. Appointments to vacant positions in the competitive service shall be made on the basis of merit and in accordance with procedures set forth in the rules established hereunder. Appointments shall be made by the city manager or by other officers in whom the power to make appointments is vested.

If appointment is to be made from employment or promotional lists, the names of persons willing to accept appointment shall be certified by the personnel director in the order in which they appear on the lists. The number of names certified shall exceed by two the number of vacancies to be filled.

In the absence of appropriate employment lists, a provisional appointment may be made by the appointing authority of a person meeting the minimum qualifications for the position, provided, however, that an employment list shall be established for such position within four months. No person shall be employed by the city under provisional appointment for a total of more than 12 months.

No credit shall be allowed in the giving of any examination or the establishment of any employment or promotional lists, for service rendered under a provisional appointment.

During the period of suspension of any employee, or pending final action on proceedings to review the suspension, demotion, or dismissal of an employee, the vacancy created may be filled by the appointing authority only by provisional appointment.

In the event of emergency, the appointing authority may appoint such persons as are required to meet the situation, but such appointment shall not exceed 30 working days in any 12-month period.

Sec. 7. Veterans' Preference. The rules may provide for allowance of veterans' preference to any persons honorably discharged from the armed forces by the United States but such preference shall be limited to the granting of additional credit points to candidates who attain a passing grade in examinations for original appointment.

Sec. 8. Probationary Period. All original and promotional appointments shall be for a probationary period of three to 12 months, the length of such period to be determined by the personnel director. During this probationary period an employee may be dismissed at any time without right of appeal or hearing in any manner. An employee dismissed during the probationary period from a position to which he has been promoted may be reinstated to the position from which he was promoted, unless charges are filed and he is discharged as provided in this ordinance and the rules.

Sec. 9. Suspensions, Demotions, and Dismissals. An appointing authority may suspend an employee under his jurisdiction without pay for disciplinary purposes. No employee may be suspended for more than 30 days in any calendar year except that extensions may be made pending any investigation and hearing. An appointing authority may demote or dismiss an employee whose work is unsatisfactory. Written notice of the action shall be served upon the employee affected and filed with the personnel director before it shall become effective. The employee may appeal within 30 days to the appeals board for a hearing.

Sec. 10. Status of Present Employees. Any person holding a position or employment included in the competitive service who, on the effective date of this ordinance, shall have served continuously in such position, or in some other position included in the competitive service, for a period of at least six months immediately prior to such effective date, shall upon certification by the appointing authority that his work has been satisfactory, assume regular status in the competitive service in the position held on such effective date without preliminary examination or working tests and shall thereafter be subject in all respects to the provisions of this ordinance. Persons who had held positions less than six months shall be regarded as probationers and may be certified in the same manner if they satisfactorily complete their working test period; if not so certified they shall be considered as holding provisional appointments.

Sec. 11. Facilities and Cooperation. Officers and employees of the city shall, during usual business hours, grant to the personnel director or his designated representative free access to premises and records under their control and shall furnish such assistance and information as may be required in carrying out the functions of the personnel department.

Sec. 12. Power to Subpoena Witnesses. In any investigation or hearing conducted by the appeals board, it shall have the power to examine witnesses under oath and compel their attendance or the production of evidence before it by subpoena issued in the name of the city and attested by the city clerk. It shall be the duty of the chief of police to cause all such subpoenas to be served and refusal of a person to attend or to testify in answer to such a subpoena shall subject said persons to prosecution in the same manner set forth by law for failure to appear before the city council in response to a subpoena issued by the city council. Each member of the appeals board shall have the power to administer oaths to witnesses.

Sec. 13. Appeals. Any regular employee who is suspended, demoted, or dismissed may appeal to the appeals board within 30 days after such action is taken.

Sec. 14. Political and Religious Discrimination. No person in the competitive service, or seeking admission thereto, shall be employed, promoted, demoted, or discharged, or in any way favored or discriminated against because of political opinions or affiliations or because of race or religious belief.

Sec. 15. Political Activity. No person holding a position in the competitive service shall seek or accept election, nomination or appointment as an officer of a county or municipal political club or organization, or take an active part in, or make any contribution or donation to, any county or municipal political campaign, or serve as a member of a committee of such club or organization or circle, or seek signatures to any petition provided for by any law, or act as a worker at the polls, or distribute badges or pamphlets, dodgers, or handbills of any kind favoring or opposing any candidate for election, or for nomination to a public office, whether county or municipal; provided, however, that nothing in this ordinance shall be construed to prevent any such officer or employee from becoming or continuing to be a member of a political organization, or from attendance at a political meeting, or from enjoying entire freedom from all interference in casting his vote. An employee who wishes to accept or seek election, or appointment to political office, shall resign from the service upon indicating such intention by formal declaration or other evidences of candidacy.

Any wilful violation thereof or violation through culpable negligence, shall be sufficient grounds for the discharge of any officer or employee guilty of such violation.

Sec. 16. Solicitation of Contributions. No officer, agent, clerk or employee, under the government of the city shall, directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving any assessment, subscription, contribution or political service, whether voluntary or involuntary, for any political purpose whatever, from any one on the eligible lists or holding any position under the provisions of this ordinance.

Sec. 17. Right to Contract for Special Service. The city council may contract with any competent agency for the performance by such agency of such technical service in connection with the establishment of the personnel system or with its operation, as may be desired. Said contract may include the delegation to such an agency of the responsibility for the performance of the duties herein imposed upon the personnel director but shall not include the delegation to such agency of the powers and duties herein vested in the city council.

Sec. 18. Appropriation of Funds. The city council shall appropriate such funds as are necessary to carry out the provisions of this ordinance.

Sec. 19. Penalty for Violation. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than \$_____ or by imprisonment in the city jail for a period of not more than _____ or by both such fine and imprisonment.

Sec. 20. Conflicting Provisions Repealed. All ordinances of the city of _____, sections, or sentences thereof, in conflict with this ordinance are hereby declared repealed to the extent of the conflict.

Sec. 21. Separability of Provisions. If any section, subsection, subdivision, sentence, clause or phrase of this ordinance is for any reason held to be invalid such decision shall not affect the validity of the remaining portions of this ordinance.

Sec. 22. Effective Date. This ordinance shall take effect 30 days after the date of its adoption.

